

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HENRY WILLIAM DEMPSEY, JR.,

Case No. 3:21-cv-00302-RCJ-CSD

Petitioner,

ORDER

v.

WARDEN GARRETT, *et al.*,

Respondents.

This is a habeas corpus action under 28 U.S.C. § 2254. Currently before the court are (1) the respondents' motion (ECF No. 23) to strike the *pro se* amended petition (ECF No. 22) as improperly filed by the petitioner rather than his appointed counsel; (2) the petitioner's second unopposed motion (ECF No. 24) to extend the deadline to file a second amended petition to July 22, 2022; and (3) the respondents' first unopposed motion (ECF No. 27) to extend time to file a response to the second amended petition to November 21, 2022.

The respondents' motion (ECF No. 23) to strike petitioner's *pro se* amended petition (ECF No. 22) will be granted and the amended petition (ECF No. 22) will be stricken as it is filed in violation of LR IA 11-6.

"It is well established that district courts have inherent power to control their docket," including the power to strike improperly filed items from the docket. *Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir. 2010). The Local Rules of Practice state, in relevant part:

A party who has appeared by attorney cannot while so represented appear or act in the case. This means that once an attorney makes an appearance on behalf of a party, that party may not personally file a document with the court; all filings must thereafter be made by the attorney

LR IA 11-6(a). This rule further states that an "attorney who has appeared for a party must be recognized by the court and all the parties as having control of the client's case." *Id.*

Because counsel is appointed to represent the petitioner, the petitioner may not personally file motions or documents with the court and the court will order the *pro se* amended petition (ECF No. 22) stricken from the court's docket.

Good causing appearing, the petitioner's second unopposed motion (ECF No. 24) for

1 extension of time to file the second amended petition will be granted *nunc pro tunc* and the
2 second amended petition, filed on July 22, 2022 (ECF No. 25) will be considered timely filed.
3 Good cause appearing, the respondents' first unopposed motion (ECF No. 27) to extend time to
4 file a response to the second amended petition will also be granted giving the respondents until
5 November 21, 2022, to file a response to the second amended petition.

6 IT IS THEREFORE ORDERED that the respondents' motion to strike petitioner's *pro se*
7 amended petition (**ECF No. 23**) is **GRANTED** and the Clerk of the Court is ordered to strike the
8 petitioner's *pro se* amended petition (ECF No. 22) from the Court's docket.

9 IT IS FURTHER ORDERED that the petitioner's unopposed second motion for
10 extension of time to file the second amended petition (**ECF No. 24**) is **GRANTED NUNC PRO**
11 **TUNC** and the second amended petition (ECF No. 25) is deemed timely filed.

12 IT IS FURTHER ORDERED that the respondents' unopposed first motion to extend time
13 to file a response to the second amended petition (**ECF No. 27**) is **GRANTED**. The respondents
14 have until November 21, 2022, to file a response to the second amended petition.

15 Dated: September 22, 2022.

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17 ROBERT C. JONES
18 UNITED STATES DISTRICT JUDGE
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